

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Theron Johnny Maxton, # 85599-071,)	Civil Action No.: 9:12-3512-MGL
)	
Petitioner,)	
)	
v.)	<u>OPINION AND ORDER</u>
)	
T. H. Tozza Rhodes, Warden FCI Florence;)	
Charles Samuels, BOP Director Washington)	
DC,)	
)	
Respondent.)	
_____)	

Pro se Petitioner Theron Johnny Maxton (“Petitioner”), a *former* inmate of the South Carolina Department of Corrections, is currently a federal prisoner housed at the U.S. Penitentiary Florence, in Florence, Colorado. Petitioner filed this habeas relief action pursuant to 28 U.S.C. § 2241 seeking immediate release from federal prison. (ECF No. 1).

In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(c), D.S.C., this matter was referred to United States Magistrate Judge Bristow Marchant for pre-trial proceedings and a Report and Recommendation (“Report”). On December 21, 2012, the Magistrate Judge issued a Report in which he recommended that the above-captioned case be transferred to the United States District Court for the District of Colorado. (ECF No. 11.) *See, e.g., Warren v. Drew*, Civil Action No. 3:10-2087-MBS-JRM, 2010 WL 5804746, at *2 (D.S.C. Nov. 30, 2010) (collecting cases), adopted, 2011 WL 573451 (D.S.C. Feb. 14, 2011). The Report was mailed to Petitioner on December 21, 2012. (ECF No. 12.) The Magistrate Judge specifically advised the plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. (ECF No. 11 at 7.) Petitioner has not filed any objections, and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After a thorough review of the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the court adopts and incorporates the Report and Recommendation (ECF No. 11) by reference into this order.

It is therefore ORDERED that the above-captioned case be transferred to the United States District Court for the District of Colorado.

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

January 30, 2013
Spartanburg, South Carolina